

STATE OF TENNESSEE

Office of the Attorney General



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Reply to:
Consumer Advocate and Protection Division
Post Office Box 20207
Nashville, TN 37202

January 17, 2003

Chairman Sara Kyle
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

DOCKET NO.

03-00061

RE: IN RE: TARIFF OF CITIZENS TELECOMMUNICATIONS COMPANY
OF TENNESSEE TO OFFER SPECIAL PROMOTIONS WITHOUT
ADVANCE NOTICE AND APPROVAL BY THE TRA
Docket No.: 03-00012- *TARIF #03-012*

Dear Chairman Kyle:

Enclosed is an original and thirteen copies of the Office of the Attorney General's Complaint and Petition to Intervene for filing in the above-referenced matter. If you have any questions, kindly contact me at (615) 741-3533. Thank you.

Sincerely,

Timothy C. Phillips
Assistant Attorney General

TCP:sc
Enclosures

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**IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

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**IN RE: TARIFF OF CITIZENS)
TELECOMMUNICATIONS COMPANY)
OF TENNESSEE TO OFFER SPECIAL)
PROMOTIONS WITHOUT ADVANCE)
NOTICE AND APPROVAL BY THE)
TRA)**

DOCKET NO. 03-00012
IN RE: TARIFF OF CITIZENS)
TELECOMMUNICATIONS COMPANY)
OF TENNESSEE TO OFFER SPECIAL)
PROMOTIONS WITHOUT ADVANCE)
NOTICE AND APPROVAL BY THE)
TRA)

COMPLAINT AND PETITION TO INTERVENE

Comes Paul G. Summers, the Attorney General & Reporter, through the Consumer Advocate and Protection Division of the Office of Attorney General (hereinafter "Attorney General"), pursuant to Tenn. Code Ann. § 65-4-118 and Rule 1220-1-2-.02 of the Tennessee Regulatory Authority and respectfully complains and petitions to intervene in this case on behalf of the public interest since consumers may be affected by actions taken in this docket. The Attorney General complains and petitions as follows:

1. The Attorney General has a duty and the authority under Tenn. Code Ann. § 65-4-118(c)(2)(A) to represent the interests of Tennessee consumers of public utilities services.
2. Additionally, under Tenn. Code Ann. § 8-6-109, the Attorney General has the duty and authority to attend to all business of the state.
3. The Attorney General is authorized by Tenn. Code Ann. §§ 65-4-118 and 65-5-210(b) to initiate, participate or intervene in proceedings to represent the public interest in accordance with the Uniform Administrative Procedures Act ("UAPA").

4. Citizens Telecommunications Company of Tennessee ("Citizens Telecommunications") is a telecommunications utility regulated by the Tennessee Regulatory Authority ("TRA") pursuant to Tenn. Code Ann. §§ 65-4-101 and 65-4-104. Its usual address for service is 300 Bland Street, P.O. Box 770, Bluefield, West Virginia 24701.

5. Citizens Telecommunications tariff essentially seeks a complete waiver of TRA Rules and Regulations 1220-4-1-.03, 1220-4-1-.04 and 1220-4-2-.06. These rules require all public utilities, including telephone utilities to file tariffs explicitly stating the rates and charges for all classes of services rendered. Tenn. Rules & Regs. 1220-4-1-.03 and 1220-4-1-.06. Additionally, TRA Rule and Regulation 1220-4-1-.04 states that any changes made by a public utility to their tariff must provide notice to the TRA 30 days prior to the effective date of the tariff. Although the TRA Rule and Regulation 1220-4-1-.04 states that an application can be made by a public utility for a waiver, it would not be in the public interest to allow for a waiver in this docket since Citizens Telecommunications has not shown good cause in this matter for a waiver. Citizens Telecommunications seeks a broad brush change that is more appropriately reviewed in a rulemaking proceeding. Of particular importance, the Citizens Telecommunications tariffs asks the TRA to abdicate its duties with respect to the review of tariffs.

6. If Citizens is allowed to obtain a waiver of TRA Rule 1220-4-1-.04, it could adversely affect Tennessee consumers because Citizens Telecommunications has also requested in this tariff that they be allowed to limit their promotions to specific geographic areas and specific customer types. Such a promotion could result in unjust discrimination, result in undue and unreasonable preference to certain consumers and could be unreasonably prejudicial.

Tennessee Code Annotated §65-4-122(a) provides that a public service company that “directly or indirectly, by any special rate, rebate, drawback or other device, charges, demands, collects, or receives from any person a greater or less compensation for any service within this state than it charges, demands, collects or receives from any other person for service of a like kind under substantially like circumstances and conditions” and if such public service company “makes any preference between the parties aforementioned” such public service company “commits unjust discrimination, which is prohibited and declared unlawful.”

7. Also, Tennessee Code Annotated §65-4-122(c) states “[i]t is unlawful for any such corporation to make or give an undue or unreasonable preference or advantage to any particular person or locality, or any particular person or locality, or any particular description of traffic or service, or to subject any particular person, company, firm, corporation or locality, or any particular description of traffic or service to any undue or unreasonable prejudice or disadvantage.”

8. Furthermore, §65-4-123 declares the telecommunications service policy of the State of Tennessee and states that although the policy of the state is to advance telecommunications services by permitting competition, it is essential that the interests of consumers are also protected. Therefore, allowing a waiver to Citizens Telecommunications in this docket would not protect the interests of consumers in the State of Tennessee.


9. Only by participating and/or intervening in this proceeding can the Attorney General accomplish the purposes set forth by the General Assembly thereby representing and protecting the interests of Tennessee consumers in public utility services.

WHEREFORE, the Consumer Advocate and Protection Division of the Office of the


Attorney General prays that Citizens Telecommunications' tariff is denied or in the alternative that the Authority convene a contested case for the purpose of evaluating the issues in this matter.

Respectfully submitted,

PAUL G. SUMMERS, B.P.R. # 6285
Tennessee Attorney General



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Complaint and Petition to Intervene was served on parties below via facsimile and U.S. Mail, postage prepaid, on January 17, 2002.

J. Michael Swatts
State Government Affairs Director
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